

REMARKS

At the time of the First Office Action dated February 22, 2008, claims 1-15 were pending and rejected in this application.

Applicants have cancelled claims 1-10 to remove these claims from further consideration in this application. Applicants are not conceding in this application that those claims are not patentable over the prior art cited by the Examiner, as the present claim cancellations are only for facilitating expeditious prosecution of the present application. Applicants respectfully reserve the right to pursue these and other claims in one or more continuations and/or divisional patent applications.

**CLAIMS 1-15 ARE REJECTED UNDER 35 U.S.C. § 102 AS BEING ANTICIPATED BY
WRIGHT, U.S. PATENT NO. 6,772,202**

On pages 2-5 of the First Office Action, the Examiner asserted that Wright discloses the invention corresponding to that claimed. This rejection is respectfully traversed.

The factual determination of anticipation under 35 U.S.C. § 102 requires the identical disclosure, either explicitly or inherently, of each element of a claimed invention in a single reference.¹ Moreover, the anticipating prior art reference must describe the recited invention with sufficient clarity and detail to establish that the claimed limitations existed in the prior art

¹ In re Rijckaert, 9 F.3d 1531, 28 USPQ2d 1955 (Fed. Cir. 1993); Richardson v. Suzuki Motor Co., 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989); Perkin-Elmer Corp. v. Computervision Corp., 732 F.2d 888, 894, 221 USPQ 669, 673 (Fed. Cir. 1984).

1 and that such existence would be recognized by one having ordinary skill in the art.² As part of
2 this analysis, the Examiner must (a) identify the elements of the claims, (b) determine the
3 meaning of the elements in light of the specification and prosecution history, and (c) identify
4 corresponding elements disclosed in the allegedly anticipating reference.³ This burden has not
5 been met.

6
7 Claim 11

8 Upon reviewing the Examiner's statement of the rejection with regard to claim 11,
9 Applicants position is that the Examiner has ignored the language of the claim. At the outset,
10 Applicants note that method is performed in a server system having a message queue and an
11 execution system which performs parallel processing of the messages. This limitation, however,
12 is absent from the Examiner's analysis, and a textual search of Wright fails to identify a single
13 instance of the word "parallel." The importance of this limitation is described in paragraphs
14 [0007] and [0008] of Applicants' disclosure.

15
16 With regard to the claimed "retrieving a message from the message queue," the Examiner
17 cited to column 6, lines 47-67 of Wright. The Examiner's cited passage, however, is a general
18 description of Fig. 3 of Wright and does not specifically identify this claimed feature. Moreover,
19 Applicants note that Fig. 3 of Wright is not directed to a messaging system for messages.
20 Instead, Wright describes a methodology for queuing client requests.

21

² See In re Spada, 911 F.2d 705, 708, 15 USPQ 1655, 1657 (Fed. Cir. 1990); Diversitech Corp. v. Century Steps, Inc., 850 F.2d 675, 678, 7 USPQ2d 1315, 1317 (Fed. Cir. 1988).

³ Lindermann Maschinenfabrik GMBH v. American Hoist & Derrick Co., 730 F.2d 1452, 221 USPQ 481 (Fed. Cir. 1984).

1 The Examiner also cited column 6, lines 47-67 of Wright for the claimed "determining a
2 transaction identifier of the message" and "searching a state table for the transaction identifier."

3 A teaching of these limitations are entirely absent from the Examiner's cited passage.
4

5 Regarding the claimed "creating an entry for the message in the state table with the
6 transaction identifier and a state of active if the state table does not contain the transaction
7 identifier found in the step of determining" and "putting the message into an execution queue,"
8 the Examiner cited column 7, lines 13-67 and column 8, lines 9-21 and asserted "the request is
9 put in line to access the resource, i.e., serialization of the messages in a queue based on the
10 requested resource."
11

12 The Examiner's cited passages, however, do not refer to the claimed "a state of active."
13 Also, Wright fails to teach that the creation of the entry is conditional upon a search of the state
14 table not containing the transaction identifier. Wright also does not teach an identifier for a
15 transaction. Instead, Wright teaches "a unique identifier corresponding to the client data
16 request." Moreover, Wright has no need to search for the identifier in the table, since Wright
17 fails to teach referring back to the "unique identifier."
18

19 For above-described reasons, the Examiner has failed to establish that Wright identically
20 discloses the claimed invention, as recited in claims 11-15, within the meaning of 35 U.S.C. § 102.
21 Applicants, therefore, respectfully submit that the imposed rejection of claims 11-15 under 35
22 U.S.C. § 102 for anticipation based upon Wright is not factually viable and, hence, solicit
23 withdrawal thereof.

Applicants have made every effort to present claims which distinguish over the prior art, and it is believed that all claims are in condition for allowance. However, Applicants invite the Examiner to call the undersigned if it is believed that a telephonic interview would expedite the prosecution of the application to an allowance. Accordingly, and in view of the foregoing remarks, Applicants hereby respectfully request reconsideration and prompt allowance of the pending claims.

Although Applicants believe that all claims are in condition for allowance, the Examiner is directed to the following statement found in M.P.E.P. § 706(II):

When an application discloses patentable subject matter and it is apparent from the claims and the applicant's arguments that the claims are intended to be directed to such patentable subject matter, but the claims in their present form cannot be allowed because of defects in form or omission of a limitation, the examiner should not stop with a bare objection or rejection of the claims. The examiner's action should be constructive in nature and when possible should offer a definite suggestion for correction. (emphasis added)

To the extent necessary, a petition for an extension of time under 37 C.F.R. § 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 09-0461, and please credit any excess fees to such deposit account.

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Respectfully submitted,

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